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DEPARTMENT OF STATE

22 CFR Part 51

[Public Notice: 9133]

RIN: 1400-AD83

Passports: Official Passports for Officials or Employees of State, Local, Tribal or Territorial Governments Traveling Abroad and Carrying Out Official Duties in Support of the U.S. Government

AGENCY: Department of State.

ACTION: Interim final rule.

SUMMARY: This rule amends the passport rules for the Department of State to authorize issuing an official passport to an official or employee of a state, local, tribal, or territorial government traveling abroad to carry out official duties in support of the U.S. government.

DATES: This rule is effective [*insert date of publication in the Federal Register*].

The Department of State will accept comments until [*insert date 60 days after publication in the Federal Register*].

ADDRESSES: You may make comments by any of the following methods, and you must include the RIN in the subject line of your message.

- Mail (paper, disk, or CD-ROM submissions): ATTN: RIN 1400-AD83, Alice Kottmyer, Attorney-Adviser, Office of the Legal Adviser (L/M), U.S. Department of State, Room 4325, 2201 C Street NW, Washington, D.C. 20520.
- E-mail: kottmyeram@state.gov.
- Persons with access to the Internet may view this rule and submit comments by going to www.regulations.gov, and searching for the rule by its RIN, 1400-AD83.

FOR FURTHER INFORMATION CONTACT: Alice Kottmyer, Attorney-Adviser, kottmyeram@state.gov, 202-647-2318.

SUPPLEMENTARY INFORMATION:

22 CFR 51.3(b) provides that an “official passport” may be issued to: an official or employee of the U.S. government traveling abroad to carry out official duties; spouses and family members of such persons; and, when authorized by the Department of State, U.S. government contractors traveling abroad to carry out official duties on behalf of the U.S. government.

Increasingly, the federal government utilizes officials or employees of state, local, tribal, and territorial governments in support of federal activities, both domestically and overseas, such as the Federal Bureau of Investigation’s Joint Terrorism Task Force. When required to travel internationally in support of such federal activities, these individuals are not currently eligible for official passports. Issuance of an official passport to such individuals signifies to foreign governments that they are carrying out official duties in support of the U.S. government. The activities undertaken by these officials are often of pressing national security, law enforcement, or humanitarian importance and occur with little advance notice. It is in the U.S. government’s interest to

provide these individuals the travel documents necessary to allow them to travel in a timely manner.

Under 22 U.S.C. 211a *et seq.*, the Secretary of State has the authority to make rules for the granting and issuance of passports. The Department is amending section 51.3(b) of 22 CFR to authorize issuing official passports to an official or employee of a state, local, tribal, or territorial government traveling abroad to carry out official duties in support of the U.S. government.

Regulatory Findings

Administrative Procedure Act

The Department is publishing this rule as an interim final rule, effective on the date of publication, pursuant to the “good cause” exemption of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B). The Department finds that delaying the effect of this rule until after notice and comment would be impractical, unnecessary, and contrary to public interest. The Department finds that providing the necessary travel documents to these individuals to allow them to travel in support of U.S. government interests provides a compelling justification for immediate approval of this rule. Therefore, this rule is effective on the date of publication. *See* 5 U.S.C. 553(d). However, the Department solicits – and welcomes – comments on this rulemaking, and will address relevant comments in a final rule.

Regulatory Flexibility Act

The Department, in accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), has reviewed this rule and, by approving it, certifies that the rule will not have a

significant economic impact on a substantial number of small entities as defined in 5 U.S.C. 601(6).

Unfunded Mandates Act of 1995

This rule will not result in the expenditure by state, local, tribal, or territorial governments, in the aggregate, or by the private sector, of \$100 million or more in any year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1501 et seq.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996, since it will not result in an annual effect on the economy of \$100 million or more. *See* 5 U.S.C. 804(2).

Executive Orders 12866 and 13563

This rule is not economically significant under Executive Order 12866, section 3(f)(1), because it will not have an annual effect on the economy of \$100 million or more. The Department expects the rule's impact on the public to be minimal. The Department has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in the Executive Orders.

Executive Order 13132

This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, the Department has determined that this rule does

not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement.

Executive Order 13175 – Effect on Tribes

The Department of State has determined that this rulemaking will not have tribal implications, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal law. Accordingly, Executive Order 13175 does not apply to this rulemaking.

Paperwork Reduction Act

This rule does not impose or alter any reporting or record-keeping requirements under the Paperwork Reduction Act.

List of Subjects in 22 CFR Part 51

Passports.

Accordingly, for the reasons stated in the preamble, 22 CFR Part 51 is amended as follows:

PART 51—PASSPORTS

1. The authority citation for part 51 continues to read as follows:

AUTHORITY: 8 U.S.C. 1504; 18 U.S.C. 1621; 22 U.S.C. 211a, 212, 213, 213n (Pub. L. 106-113 Div. B, Sec. 1000(a)(7) [Div. A, Title II, Sec. 236], 113 Stat. 1536, 1501A-430); 214, 214a, 217a, 218, 2651a, 2671(d)(3), 2705, 2714, 2721, & 3926; 26 U.S.C. 6039E; 31 U.S.C. 9701; 42 U.S.C. 652(k) [Div. B, Title V of Pub. L. 103-317, 108 Stat. 1760]; E.O. 11295, Aug. 6, 1966, FR 10603, 3 CFR, 1966-1970 Comp., p. 570; Sec. 1 of Pub. L. 109-210, 120 Stat. 319; Sec. 2 of Pub. L. 109-167, 119 Stat. 3578; Sec. 5 of Pub. L. 109-

472, 120 Stat. 3554; Pub. L. 108-447, Div. B, Title IV, Dec. 8, 2004, 118 Stat. 2809; Pub. L. 108-458, 118 Stat. 3638, 3823 (Dec. 17, 2004).

2. Revise paragraph (b) of §51.3 to read as follows:

§51.3 Types of passports.

(b) Official passport. When authorized by the Department, an official passport may be issued to:

(1) An official or employee of the U.S. government traveling abroad to carry out official duties, and family members of such persons;

(2) A U.S. government contractor traveling abroad to carry out official duties on behalf of the U.S. government; or

(3) An official or employee of a state, local, tribal, or territorial government traveling abroad to carry out official duties in support of the U.S. government.

Patrick F. Kennedy
Undersecretary For Management
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